EXHIBIT A

07/17/2009 11:44 619232[illegible] DAVID B [illegible] No. 2952 [illegible] Received Time Jul. 20. 2009 1:[illegible]PM

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT
2009 JUL 17 AM 11:55
ROSA JUNQUEIRO, CLERK
BY [signature]
DEPUTY

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CALIFORNIA DEPARTMENT OF JUSTICE,
and DOES 1-25 inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
STOCKTON ENTERPRISES, LLC, and
STOCKTON DEJA VU BOUTIQUE, LLC

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

***¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

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The name and address of the court is:
(El nombre y dirección de la corte es):
San Joaquin County Superior Court
222 East Weber Avenue
Stockton, CA 95202

CASE NUMBER: 39-2009-00221372-CU-MC-STK

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
David B. Norris
750 B Street, Suite 2740
San Diego, CA 92101
LAW OFFICES OF DAVID B. NORRIS
619-232-2690 fax 619-232-2699

DATE: JUL 17 2009 ROSA JUNQUEIRO Clerk, by [signature], Deputy
(Fecha) *(Secretario)* *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL] SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN JOAQUIN

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☒ on behalf of *(specify)*: CALIFORNIA DEPARTMENT OF JUSTICE, BUREAU OF GAMBLING CONTROL

under:
- ☐ CCP 416.10 (corporation)
- ☐ CCP 416.20 (defunct corporation)
- ☐ CCP 416.40 (association or partnership)
- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)
- ☒ other *(specify)*: PUBLIC ENTITY

4. ☐ by personal delivery on *(date)*:

07/17/2009 11:44 619232_ 9 DAVID Received Time Jul. 20. 2009 1:11PM No. 2952

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
David B. Norris 149646
LAW OFFICES OF DAVID B. NORRIS
750 B Street, Suite 2740
San Diego, CA 92101
TELEPHONE NO.: 619-232-2690 FAX NO.: 619-232-2699
ATTORNEY FOR (Name): Plaintiffs

FOR COURT USE ONLY

FILED SUPERIOR COURT
2009 JUL 17 AM 11:55
ROSA JUNQUEIRO, CLERK
DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Joaquin
STREET ADDRESS: 222 East Weber Avenue
MAILING ADDRESS:
CITY AND ZIP CODE: Stockton, CA 95202
BRANCH NAME: Stockton Courthouse

CASE NAME: STOCKTON v. DEPARTMENT OF JUSTICE

CIVIL CASE COVER SHEET

[X] Unlimited (Amount demanded exceeds $25,000)
[ ] Limited (Amount demanded is $25,000 or less)

Complex Case Designation

[ ] Counter [ ] Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 39-2009-00221372-CU-MC-STK

JUDGE: LAUREN P. THOMASSON
DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
- [ ] Auto (22)
- [ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- [ ] Asbestos (04)
- [ ] Product liability (24)
- [ ] Medical malpractice (45)
- [ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- [ ] Business tort/unfair business practice (07)
- [ ] Civil rights (08)
- [ ] Defamation (13)
- [ ] Fraud (16)
- [ ] Intellectual property (19)
- [ ] Professional negligence (25)
- [ ] Other non-PI/PD/WD tort (35)

Employment
- [ ] Wrongful termination (36)
- [ ] Other employment (15)

Contract
- [ ] Breach of contract/warranty (06)
- [ ] Rule 3.740 collections (09)
- [ ] Other collections (09)
- [ ] Insurance coverage (18)
- [ ] Other contract (37)

Real Property
- [ ] Eminent domain/Inverse condemnation (14)
- [ ] Wrongful eviction (33)
- [ ] Other real property (26)

Unlawful Detainer
- [ ] Commercial (31)
- [ ] Residential (32)
- [ ] Drugs (38)

Judicial Review
- [ ] Asset forfeiture (05)
- [ ] Petition re: arbitration award (11)
- [ ] Writ of mandate (02)
- [ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- [ ] Antitrust/Trade regulation (03)
- [ ] Construction defect (10)
- [ ] Mass tort (40)
- [ ] Securities litigation (28)
- [ ] Environmental/Toxic tort (30)
- [ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- [ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
- [ ] RICO (27)
- [X] Other complaint (not specified above) (42)

Miscellaneous Civil Petition
- [ ] Partnership and corporate governance (21)
- [ ] Other petition (not specified above) (43)

2. This case [ ] is [X] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [ ] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. [ ] monetary b. [X] nonmonetary; declaratory or injunctive relief c. [ ] punitive
4. Number of causes of action *(specify)*: Two.
5. This case [ ] is [X] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: July 16, 2009

David B. Norris
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

STOCKTON ENTERPRISES

David B. Norris (SBN: 149646)
LAW OFFICES OF DAVID BAXTER NORRIS
Symphony Towers
750 "B" Street
Suite 2740
San Diego, California 92101-8129
Telephone: (619) 232-2690
Facsimile : (619) 232-2699
DBN@NorrisLegal.com

FILED
SUPERIOR COURT
2009 JUL 17 AM 11:55
ROSA JUNQUEIRO, CLERK
DEPUTY

Attorneys for Plaintiffs STOCKTON ENTERPRISES, LLC and STOCKTON DÉJÀ VU BOUTIQUE, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

STOCKTON ENTERPRISES, LLC and STOCKTON DÉJÀ VU BOUTIQUE, LLC, Plaintiffs, v. CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants.	Case No.: 39-2009-00221372-CU-MC-STK **PLAINTIFFS' VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY RELIEF;** **BY FAX** Superior Court Judge: Complaint Filed:

THIS CASE HAS BEEN ASSIGNED TO JUDGE LAUREN P. THOMASSON IN DEPARTMENT 32 FOR ALL PURPOSES, INCLUDING TRIAL

Comes now Plaintiffs herein allege as follows;

1. That plaintiff STOCKTON ENTERPRISES, LLC at all times alleged herein was and is an LLC organized and operating under the laws of the State of Nevada, with all necessary certificates to conduct business in the State of California, and is the entity operating and doing business as "Déjà Vu Showgirls," 4206 N. West Lane, Stockton, California.

2. That plaintiff STOCKTON DÉJÀ VU BOUTIQUE, LLC at all times alleged herein was and is an LLC organized and operating under the laws of the State of Nevada, with all necessary certificates to conduct business in the State of California, and is the entity operating and previously doing business as "Lucky Déjà Vu Internet Cafe," 4124 N. West Lane, Stockton, California.

3. Plaintiffs are informed and believe and thereon allege that defendant CALIFORNIA DEPARTMENT OF JUSTICE (Hereinafter "Defendant") is a properly constituted department of the State of California with responsibility, through its Division of Gambling Control, for the uniform enforcement of laws, statutes and codes throughout the State of California.

4. The true names, culpability or capacities, whether individual, corporate, institutional, associate, or otherwise, of defendants DOES 1-25, inclusive, are unknown to Plaintiffs, who therefore sue said DOE defendants by such fictitious names. Plaintiffs are informed and believe and thereon allege that each of the defendants designated as a DOE is legally responsible in some manner for the acts and/or omissions alleged herein, and actually and proximately caused and contributed to said acts referred to and alleged herein.

5. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein, Defendant and DOES 1-25, inclusive, were the agents, partners, employers, employees and joint venturers of each of the remaining defendants including Defendant and DOES 1-25, inclusive, and were, at all times mentioned herein, acting within the course and scope of such agency or employment.

6. Plaintiffs are exempt from the Government Claims Act, *Govt. Code* Section 814 et seq., and/or any related claims filing requirement(s) as the instant complaint does not seek monetary damages, and, because Defendant has represented it will destroy plaintiffs seized business

equipment "in 30 days" and defendant has, by law, 45 days to accept or deny any pre-litigation claim, thereby rendering the claims process both impossible and inequitable to plaintiffs herein. *Long v. City of Los Angeles* (1998) 68 CA 4th 782.

The Sweepstakes

7. At all times alleged herein, Plaintiff STOCKTON DÉJÀ VU BOUTIQUE, LLC operated the Lucky Déjà Vu Internet Café. The Internet Café sold "internet time" to customers to use on plaintiffs computer terminals. Plaintiff STOCKTON ENTERPRISES, LLC additionally had computers for customers to use their internet time.

8. For every dollar spent by a customer purchasing internet time, the customer received 100 Sweepstakes entries. The Sweepstakes entries provided to the customer were *predetermined* entrees which the customer could either, (A.) enter into any of the internet computers at plaintiffs businesses and immediately determine if the customer received any Sweepstakes winnings, or, (B.) chose to operate one of 18 different games on the computer to determine if any of the entries were a winning Sweepstakes entry. Under the latter option, the customer's ability to win or lose the game was not based upon the customer's skill at any of the games. Instead, the customer's ability to win, or lose, the various games was predetermined by the Sweepstakes entrees. The Sweepstakes do not require the use of the participant's skill or expertise. No amount of the participant's skill can influence the outcome of the game(s). Plaintiffs are informed and believe, and thereon allege, that defendants dispute each of these contentions and contend the Sweepstakes violate California law, statute or code.

9. Despite the facts alleged in paragraphs 1 through 8 above, upon information and belief Defendants have taken the position that the manner in which the Sweepstakes was operated constitutes unlawful conduct.

10. On or about June 24, 2009, Defendant, through its Division of Gambling Control, confiscated Plaintiffs computers, servers, monitors and related business equipment and items.

Plaintiffs Demand to Preserve and Protect Seized Property and Objection to Defendants Notice of Intention to Destroy Machines.

11. Plaintiffs, for purposes of reference and identification only, and without admitting any of the information contained thereon, attach hereto as Exhibit A, a June 24, 2009 Department of Justice, division of Gambling Control, "Notice of Intention to Destroy Machines" notice pertaining to STOCKTON ENTERPRISES, LLC, and Exhibit B, a Department of Justice, Division of Gambling Control, June 24, 2009 property receipt bearing investigation number BGC-SA2009-00037 pertaining to STOCKTON DÉJÀ VU BOUTIQUE, LLC. Upon information and belief plaintiffs believe that a "Notice of Intention to Destroy Machines" was generated with regard to the STOCKTON DÉJÀ VU BOUTIQUE, LLC. Computers and related equipment seized by Defendants.

12. By this pleading, filed and served within the 30 day limitation set forth in Exhibit A, plaintiffs' demand that defendants cease from any efforts to destroy the seized property identified and alleged herein until such time as the Court can fully adjudicate the rights, duties and liabilities of the parties, as alleged herein. Further, and by this pleading, plaintiffs demand that Defendant immediately notify its agents, assigns, partners, employers, employees and joint

venturers of plaintiffs demand in order that the referenced property will be preserved, and not destroyed, by defendants' agents, assigns, partners, employers, employees and joint venturers.

FIRST CAUSE OF ACTION

Injunctive Relief

(As against all Defendants and DOES)

13. Plaintiffs incorporate herein by reference paragraphs 1 to 12, inclusive, as though fully set forth herein.

14. Plaintiffs have vested property rights in the seized equipment referenced herein, the Sweepstakes promotion and the internet service, and without which, Plaintiffs cannot do business.

15. Plaintiffs will suffer irreparable injury unless defendants interference with the full and lawful use of defendants businesses are enjoined because, *inter alia*, the business equipment of defendants is presently at risk of being destroyed by the Department of Justice, and, because Plaintiffs stand to lose their leaseholds and/or businesses as they are currently out of business as a result of defendants actions alleged herein. Plaintiffs seek temporary and permanent restraining orders and injunctive relief preventing defendants and DOES from (1.) destroying Plaintiffs' business equipment, and (2.) precluding defendants from holding that Plaintiffs Sweepstakes is in violation of any California law, statute or code.

///

///

SECOND CAUSE OF ACTION

Declaratory Relief

(As against all defendants and DOES)

16. Plaintiffs incorporate herein by reference paragraphs 1 to 15, inclusive, as though fully set forth herein.

17. An actual controversy has arisen and exists between Plaintiffs and defendants concerning the whether the Sweepstakes game referenced herein is prohibited under California law, statute or code. Plaintiffs contend that Sweepstakes is legal in all aspects. Defendants, upon information and belief, contend it is not.

18. Plaintiffs desire, and hereby request, a judicial resolution of the controversy alleged herein and a determination that plaintiffs are correct as to the legality of their Sweepstakes as alleged herein and for the return of Plaintiffs seized property.

WHEREFORE,

Plaintiffs pray for judgment against Defendants and DOES inclusive, and each of them, as follows:

1. For injunctive relief, including temporary and permanent restraining orders, enjoining defendants (and their agents, employees and representatives) and DOES from destroying plaintiffs seized property and for its return to plaintiffs;
2. For injunctive relief, including temporary and permanent restraining orders enjoining defendants (and their agents, employees and representatives) and DOES from

holding, determining and/or enforcing defendants position that plaintiffs Sweepstakes is in violation of California law, statute or code;

3. For a declaratory judgment to be rendered and entered determining that plaintiffs Sweepstakes is not in violation of California law, statute or code;

4. For costs of suit;

5. For such other and further relief as the court may deem just and proper.

DATED: July 17, 2009

David B. Norris
LAW OFFICES OF DAVID B. NORRIS
Attorney for Plaintiffs STOCKTON ENTERPRISES, LLC and STOCKTON DÉJÀ VU BOUTIQUE, LLC

David B. Norris (SBN: 149646)
LAW OFFICES OF DAVID BAXTER NORRIS
Symphony Towers
750 "B" Street
Suite 2740
San Diego, California 92101-8129
Telephone: (619) 232-2690
Facsimile : (619) 232-2699
DBN@NorrisLegal.com

Attorneys for Plaintiffs STOCKTON ENTERPRISES, LLC and STOCKTON DĖJÀ VU BOUTIQUE, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

STOCKTON ENTERPRISES, LLC and STOCKTON DĖJÀ VU BOUTIQUE, LLC, Plaintiffs, v. CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants.	Case No.: **VERIFICATION OF COMPLAINT** Superior Court Judge: Complaint Filed:

I, Donald Krontz, declare as follows,

1. I am the managing director of plaintiffs STOCKTON ENTERPRISES, LLC and STOCKTON DĖJÀ VU BOUTIQUE, LLC in the above-entitled action.
2. I have reviewed the attached "Plaintiffs verified complaint for Injunctive relief and Dcolaratory relief."

3. The facts, information and allegations in the complaint are true and correct, except for those matters alleged upon information and belief, and as to those matters, I believe them to be true and correct.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED: July 16, 2009

Donald Krontz

EXHIBIT A

State of California
Department of Justice

Notice of Intention to Destroy Machines and Devices
COO-DES 008 (Rev. 1/99)

NOTICE OF INTENTION TO DESTROY MACHINES AND DEVICES
PURSUANT TO SECTION 335a OF THE CALIFORNIA PENAL CODE

Notice is hereby given that the expiration of thirty (30) days after 6/24/09, the Department of Justice, Division of Gambling Control, will summarily destroy those machines and devices the possession or control of which is penalized by the law of the State of California prohibiting lotteries or gambling, which have been seized in the County of San Joaquin, by a peace officer at and upon the premises commonly known as "Lucky Deja Vu Showgirls" and located at 4206 N. West Lane, Stockton, CA unless before the expiration of said time, action be commenced in court of competent jurisdiction to recover the possession of said machines and devices, which said machines and devices are more particularly described as follows:

One (1) HP Compaq DX2450 serial # MXL8190612
One (1) USB Dongle W/chip - model # SLK001; serial # 09031315 World Touch Gaming
One (1) ELO 19" monitor flat screen serial # H08C029891
~~One (1) HP Compaq DX2450 serial # MXL8190614~~
One (1) USB Dongle W/chip model # SLK001 serial # 09031331
One (1) USB Dongle W/chip - model # SLK001 partial ser. # 08081
One (1) ELO 19" monitor flat screen serial # H08C029886

Date Posted: 6/24/09

By: SA Lisa Mosser

EXHIBIT B

STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE

Page .... of ....

DIVISION OF GAMBLING CONTROL

Investigation No. BGC SA2009-0003

PROPERTY RECEIPT

Date: 6/24/09

Property Received From:

Name: Lucci Dejavu Address: 4124 West Lane, Stockton

I HEREBY ACKNOWLEDGE RECEIPT OF THE BELOW DESCRIBED PROPERTY

Item No.	Description (include serial number)	Exact Location found (if applicable)
004-001	HP Tower MXL8190C3Q (Reg #1)	Cashier Counter
004-002	HP Tower MXL819061M (Reg #2)	

Receiving Individual (print or type)

[illegible]

Receiving Individual (signature)

[signature]

Witnessing Individual (print or type)

Antonio Espinoza

Witnessing Individual (signature)

[signature]

DGC CES 002 NEW (9-03)

EXHIBIT B

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
NORTH COUNTY DIVISION
2009 JUL 20 PM 12:27
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
CALIFORNIA DEPARTMENT OF JUSTICE,
and DOES 1-25 inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
LUCKY BOBS INTERNET CAFE, LLC

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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The name and address of the court is:
(El nombre y dirección de la corte es):
San Diego Superior Court
325 South Melrose Drive
Vista, CA 92081

CASE NUMBER: *(Número del Caso):*
37-2009-00057438-CU-MC-NC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
David B. Norris
750 B Street, Ste: 2740
San Diego, CA 92101
Law Office of David B. Norris
619-232-2690

DATE: JUL 2 0 2009 Clerk, by T. Ozenbaugh, Deputy
(Fecha) *(Secretario)* *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*: CALIFORNIA DEPARTMENT OF JUSTICE, BUREAU OF GAMBLING CONTROL
3. ☒ on behalf of *(specify)*:
   under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
   ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
   ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
   ☒ other *(specify)*: PUBLIC ENTITY
4. ☐ by personal delivery on *(date)*:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): 149646
David B. Norris
Law Office of David B. Norris
750 B Street, Ste: 2740
San Diego, CA 92101
TELEPHONE NO.: 619-232-2690 FAX NO.: 619-232-2699
ATTORNEY FOR (Name): Plaintiff LUCKY BOBS INTERNET CAFE L

FOR COURT USE ONLY

FILED
NORTH COUNTY DIVISION
2009 JUL 20 PM 12: 28
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego
STREET ADDRESS: 325 South Melrose Drive
MAILING ADDRESS:
CITY AND ZIP CODE: Vista, CA 92081
BRANCH NAME: North County Branch

CASE NAME: LUCKY BOBS v. DOJ

CIVIL CASE COVER SHEET

☐ Unlimited (Amount demanded exceeds $25,000) ☐ Limited (Amount demanded is $25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 37-2009-00057428-CU-MC-NC

JUDGE:

DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment
☐ Wrongful termination (36)
☐ Other employment (15)

Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
☐ RICO (27)
☒ Other complaint (*not specified above*) (42)

Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (*not specified above*) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☐ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (*check all that apply*): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (*specify*): Two.
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: July 17, 2009

David B. Norris
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

FILED
NORTH COUNTY DIVISION
2009 JUL 20 PM 12:28
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

David B. Norris (SBN: 149646)
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Symphony Towers
750 "B" Street
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San Diego, California 92101-8129
Telephone: (619) 232-2690
Facsimile : (619) 232-2699
DBN@NorrisLegal.com

Attorneys for Plaintiff LUCKY BOBS INTERNET CAFÉ, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

NORTH COUNTY BRANCH

LUCKY BOBS INTERNET CAFÉ, LLC, Plaintiff, v. CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants.	Case No.: **37-2009-00057438-CU-MC-NC** **PLAINTIFFS' VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DECLARATORY RELIEF;** Superior Court Judge: Complaint Filed:

Comes now Plaintiff herein alleges as follows;

1. That plaintiff LUCKY BOBS INTERNET CAFÉ, LLC at all times alleged herein was and is an LLC organized and operating with all necessary certificates to conduct business in the State of California, and is the entity operating and doing business as "Lucky Bobs Internet Cafe" 3915 Mission Avenue, Suite D3&4, Oceanside, California.

2. Plaintiff is informed and believes and thereon alleges that defendant CALIFORNIA DEPARTMENT OF JUSTICE (Hereinafter "Defendant") is a properly constituted department of the State of California with responsibility, through its Division of Gambling Control, for the uniform enforcement of laws, statutes and codes throughout the State of California.

3. The true names, culpability or capacities, whether individual, corporate, institutional, associate, or otherwise, of defendants DOES 1-25, inclusive, are unknown to Plaintiff, who therefore sue said DOE defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the defendants designated as a DOE is legally responsible in some manner for the acts and/or omissions alleged herein, and actually and proximately caused and contributed to said acts referred to and alleged herein.

4. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, Defendant and DOES 1-25, inclusive, were the agents, partners, employers, employees and joint venturers of each of the remaining defendants including Defendant and DOES 1-25, inclusive, and were, at all times mentioned herein, acting within the course and scope of such agency or employment.

5. Plaintiff is exempt from the Government Claims Act, *Govt. Code* Section 814 et seq., and/or any related claims filing requirement(s) as the instant complaint does not seek monetary damages, and, because Defendant has represented it will destroy plaintiff's seized business equipment "in 30 days" and defendant has, by law, 45 days to accept or deny any pre-litigation claim, thereby rendering the claims process both impossible and inequitable to plaintiff herein. *Long v. City of Los Angeles* (1998) 68 CA 4th 782.

The Sweepstakes

6. At all times alleged herein, Plaintiff LUCKY BOBS INTERNET CAFÉ, LLC operated the "Lucky bobs Internet Cafe." The Internet Café sold "internet time" to customers to use on plaintiff's computer terminals.

7. For every dollar spent by a customer purchasing internet time, the customer received 100 Sweepstakes entries. The Sweepstakes entries provided to the customer were *predetermined* entrees which the customer could either, (A.) enter into any of the internet computers at plaintiff's business and immediately determine if the customer received any Sweepstakes winnings, or, (B.) chose to operate one of 18 different games on the computer to determine if any of the entries were a winning Sweepstakes entry. Under the latter option, the customer's ability to win or lose the game was not based upon the customer's skill at any of the games. Instead, the customer's ability to win, or lose, the various games was predetermined by the Sweepstakes entrees. The Sweepstakes do not require the use of the participant's skill or expertise. No amount of the participant's skill can influence the outcome of the game(s). Plaintiff is informed and believes, and thereon alleges, that defendants dispute each of these contentions and contend the Sweepstakes violate California law, statute or code.

8. Despite the facts alleged in paragraphs 1 through 7 above, upon information and belief Defendants have taken the position that the manner in which the Sweepstakes was operated constitutes unlawful conduct.

9. On or about June 24, 2009, Defendant, through its Division of Gambling Control, confiscated Plaintiff's computers, servers, monitors and related business equipment and items.

Plaintiffs Demand to Preserve and Protect Seized Property and Objection to Defendants Notice of Intention to Destroy Machines.

10. Plaintiff, for purposes of reference and identification only, and without admitting any of the information contained thereon, attach hereto as Exhibit A, a June 24, 2009 Department of Justice, division of Gambling Control, "Notice of Intention to Destroy Machines" notice pertaining to LUCKY BOBS INTERNET CAFÉ, LLC.

11. By this pleading, filed and served within the 30 day limitation set forth in Exhibit A, plaintiff demands that defendants cease from any efforts to destroy the seized property identified and alleged herein until such time as the Court can fully adjudicate the rights, duties and liabilit''s of the parties, as alleged herein. Further, and by this pleading, plaintiff demands that Defendant immediately notify its agents, assigns, partners, employers, employees and joint venture"s of plaintiffs demand in order that the referenced property will be preserved, and not destroyed, by defendants' agents, assigns, partners, employers, employees and joint venturers.

FIRST CAUSE OF ACTION

Injunctive Relief

(As against all Defendants and DOES)

12. Plaintiff incorporates herein by reference paragraphs 1 to 11, inclusive, as though fully set forth herein.

13. Plaintiff has vested property rights in the seized equipment referenced herein, the Sweepstakes promotion and the internet service, and without which, Plaintiff cannot do business.

14. Plaintiff will suffer irreparable injury unless defendants interference with the full and lawful use of defendants businesses are enjoined because, *inter alia,* the business equipment of

defendants is presently at risk of being destroyed by the Department of Justice, and, because Plaintiff stands to lose its leasehold and/or business as it is currently out of business as a result of defendants actions alleged herein. Plaintiff seeks temporary and permanent restraining orders and injunctive relief preventing defendants and DOES from (1.) destroying Plaintiffs business equipment, and (2.) precluding defendants from holding that Plaintiffs Sweepstakes is in violation of any California law, statute or code.

SECOND CAUSE OF ACTION

Declaratory Relief

(As against all defendants and DOES)

15. Plaintiff incorporates herein by reference paragraphs 1 to 14, inclusive, as though fully set forth herein.

16. An actual controversy has arisen and exists between Plaintiff and defendants concerning the whether the Sweepstakes game referenced herein is prohibited under California law, statute or code. Plaintiff contends that Sweepstakes is legal in all aspects. Defendants, upon information and belief, contend it is not.

17. Plaintiff desires, and hereby request, a judicial resolution of the controversy alleged herein and a determination that plaintiff is correct as to the legality of their Sweepstakes as alleged herein and for the return of Plaintiff seized property.

WHEREFORE,

Plaintiff prays for judgment against Defendants and DOES inclusive, and each of them, as follows:

1. For injunctive relief, including temporary and permanent restraining orders, enjoining defendants (and their agents, employees and representatives) and DOES from destroying plaintiffs seized property and for its return to plaintiff;
2. For injunctive relief, including temporary and permanent restraining orders enjoining defendants (and their agents, employees and representatives) and DOES from holding, determining and/or enforcing defendants position that plaintiff Sweepstakes is in violation of California law, statute or code;
3. For a declaratory judgment to be rendered and entered determining that plaintiff Sweepstakes is not in violation of California law, statute or code;
4. For costs of suit;
5. For such other and further relief as the court may deem just and proper.

DATED: July 17, 2009

David B. Norris
LAW OFFICES OF DAVID B. NORRIS
Attorney for Plaintiff LUCKY BOBS INTERNET CAFE

EXHIBIT A

Received Time Jul. 20. 2009 1:19PM No. 2952

EDMUND G. BROWN
Attorney General

State of California
DEPARTMENT OF JUSTICE

BUREAU OF GAMBLING CONTROL
P.O. BOX 168024
SACRAMENTO, CA 95816
(916) 263-3408
Facsimile: (916) 263-3403

NOTICE OF INTENTION TO DESTROY MACHINES AND DEVICES PURSUANT TO SECTION 335a OF THE CALIFORNIA PENAL CODE

Notice is hereby given, that upon the expiration of thirty (30) days after 06-24-09, the Department of Justice, Division of Gambling Control, will summarily destroy those machines and devices the possession or control of which is penalized by the law of the State of California, prohibiting lotteries or gambling, which have been seized in the County of SAN DIEGO, by a peace officer at and upon the premises commonly known as LUCKY BOB'S INTERNET CAFE and is located at 3915 MISSION AVE, STE 3/4 OCEANSIDE, CA unless before the expiration of said time [redacted]

HP SERVER COMPUTER, HP MICROTOWER, SIM CARD READER, HP COMPUTER TOWER

Date Posted: 06-24-09

By: CALIFORNIA DEPT. OF JUSTICE
BUREAU OF GAMBLING CONTROL
Special Agent
PAT FINE
[signature]

Received Time Jul. 20. 2009 1:19PM No. 2952

David B. Norris (SBN: 149646)
LAW OFFICES OF DAVID BAXTER NORRIS
Symphony Towers
750 "B" Street
Suite 2740
San Diego, California 92101-8129
Telephone: (619) 232-2690
Facsimile : (619) 232-2699
DBN@NorrisLegal.com

Attorneys for Plaintiff LUCKY BOBS INTERNET CAFÉ, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

NORTH COUNTY BRANCH

LUCKY BOBS INTERNET CAFÉ, LLC, Plaintiff, v. CA' IFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants.	Case No.: **VERIFICATION OF COMPLAINT** Superior Court Judge: Complaint Filed:

I, Robert Kurbis, declare as follows,

1. I am the managing director of plaintiff LUCKY BOBS INTERNET CAFÉ, LLC in the above-entitled action.
2. I have reviewed the attached "Plaintiffs verified complaint for Injunctive relief and Declaratory relief."

3. The facts, information and allegations in the complaint are true and correct, except for those matters alleged upon information and belief, and as to those matters, I believe them to be true and correct.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

DATED: July 17, 2009

Robert Kurbis

Received Time Jul. 20. 2009 1:19PM No. 2952

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO SOUTH BUILDING TENTATIVE RULINGS - September 24, 2009

EVENT DATE: 09/25/2009 EVENT TIME: 01:30:00 PM DEPT.: N-28

JUDICIAL OFFICER:Earl H. Maas III

CASE NO.: 37-2009-00057438-CU-MC-NC

CASE TITLE: LUCKY BOBS INTERNET CAFE, LLC VS. CALIFORNIA DEPARTMENT OF JUSTICE

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)
CAUSAL DOCUMENT/DATE FILED:

The unopposed Motion of Lucky Bobs Internet Café to Transfer and Consolidate Cases, is granted.

Pursuant to Cal. Rules of Court, Rule 3.500(d) this court finds the following:

- that Lucky Bobs Internet Café, LLC. v. California Department of Justice; and Stockton Enterprises, LLC. v. California Department of Justice are not complex cases as indicated by their civil case cover sheets; *see declaration of David B. Norris, ¶ 11.*
- that there are common questions of both fact or law that are significant to the litigation. Both cases arise from the same "sweepstakes" program run at two different venues. Also, both cases have identical causes of action; *see declaration of David B. Norris, ¶ 8.*
- that the convenience of the parties, witnesses, and counsel are served by transferring the San Joaquin case of Stockton Enterprises, LLC. v. California Department of Justice the San Diego Superior Court, Department 28; *see declaration of David B. Norris, ¶ 9.*
- that the relative development of the actions and the work product of counsel will be similar because the two separate actions involve identical claims arising from similar facts; *see declaration of David B.* Norris, ¶ 8.
- that by transferring and consolidating the cases there is an efficient utilization of judicial facilities and staff resources in that it allows the Stockton Enterprises, LLC v. California Department of Justice case to be consolidated here, thus freeing up the San Joaquin County Courthouse;
- that by transferring and consolidating the cases the calendar of the courts is served by halving the required hearings;
- that the disadvantages of duplicative and inconsistent rulings, orders, or judgments is minimal due to the nature of the cases; *see declaration of David B. Norris, ¶ 12.*and
- there is low likelihood of settlement of the actions without further litigation should coordination be denied.

Lastly, the Court notes that the Defendants in the case have submitted a "Notice of Agreement to Transfer Action Pending in San Joaquin County to this Court and for Consolidation with this action."

CASE TITLE: LUCKY BOBS INTERNET CAFE, LLC VS. CALIFORNIA DEPARTMENT OF CASE NUMBER: 37-2009-00057438-CU-MC-NC

The Moving Party, Lucky Bobs Internet Café, is to hereby take the following steps to implement the transfer, pursuant to Cal.Rules of Court, rule 3.500(e), (f):

- Plaintiff shall serve this order on all parties to the case within 7 days of the date of this ruling;
- Plaintiff shall serve this order to the Judicial Council within 7 days of the date of this ruling; and
- Plaintiff shall send this order to the presiding judge of the San Joaquin Superior Court within 7 days of the date of this ruling.

Upon receipt of the case from San Joaquin, the clerks are directed to consolidate both actions. Any responsive pleadings shall be filed with the court within 30 days of the date of transfer.

DECLARATION OF SERVICE

Case Name: LUCKY BOBS INTERNET CAFÉ, LLC. v CALIFORNIA DEPARTMENT OF JUSTICE

No. 37-2009-00057438-CU-MC-NC

I, DAVID B. NORRIS, declare: I am employed in the County of San Diego, California. I am 18 years of age or over and not a party to the within cause; my business address is 402 West Broadway, Suite 1140, San Diego, California, 92101-8513.

On the date listed below, I served the attached;

Tentative Ruling- September 24, 2009

In said cause, by placing a true copy thereof enclosed in a sealed envelope in the mail collection system of the Law Offices of David B. Norris, 402 West Broadway, Suite 1140, San Diego, California, 92101-8513, for deposit in the United States Postal Service mail that same day in the ordinary course of business, in a sealed envelope, postage fully paid, addressed as follows, or, that personal service was made upon the individual or entity as stated below;

T. Michelle Laird
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266

Bill Williams
Indian & Gaming Law Section
Office of Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550

San Joaquin County Superior Court
Attention: Clerk of the Court
Department 32
222 East Weber Avenue
Stockton, CA 95202

Judicial Council
770 L Street, #700
Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at San Diego, California, on the date set forth below.

September 25, 2009

[signature] David B. Norris

David B. Norris Attorney for Plaintiff's

EXHIBIT D

David B. Norris (SBN: 149646)
LAW OFFICES OF DAVID BAXTER NORRIS
Emerald Plaza
402 West Broadway
Suite 1140
San Diego, California 92101-8513
Telephone: (619) 232-2690
Facsimile : (619) 232-2699
DBN@NorrisLegal.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

NORTH COUNTY BRANCH

LUCKY BOBS INTERNET CAFÉ, LLC, Plaintiff, v. CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants. AND CONSOLIDATED ACTION: STOCKTON ENTERPRISES, LLC and STOCKTON DÉJÀ VU BOUTIQUE, LLC, Plaintiffs, v. CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive, Defendants.	Case No.: 37-2009-00057438-CU-MC-NC **Consolidated Cases** **NOTICE OF RULING** Dept. : NC-28 Superior Court Judge: Hon. Earl H. Maas III Complaint Filed: July 17, 2009

At the December 11, 2009, 1:30 P.M., Department 28, hearing on Defendant CALIFORNIA DEPARTMENT OF JUSTICES' demurrer to Plaintiff's verified complaint; After oral argument, the demurrer was overruled. The Court granted Defendant leave to file an answer by January 4, 2010.

December 18, 2009

David B. Norris, Attorney for Plaintiffs

DECLARATION OF SERVICE

Case Name: **LUCKY BOB'S LLC v CALIFORNIA DEPARTMENT OF JUSTICE**

No. 37-2009-00057438-CU-MC-NC

I, DAVID B. NORRIS, declare: I am employed in the County of San Diego, California. I am 18 years of age or over and not a party to the within cause; my business address is 402 West Broadway, Suite 1140, San Diego, California, 92101-8513.

On the date listed below, I served the attached;

PLAINTIFFS' NOTICE OF RULING

In said cause, by placing a true copy thereof enclosed in a sealed envelope in the mail collection system of the Law Offices of David B. Norris, 402 West Broadway, Suite 1140, San Diego, California, 92101-8513, for deposit in the United States Postal Service mail that same day in the ordinary course of business, in a sealed envelope, postage fully paid, addressed as follows, or, that personal service was made upon the individual or entity as stated below;

Edmund G. Brown Jr.
Sara J. Drake
T. Michelle Laird
Deputy Attorney General
110 West A Street
Suite 1100
San Diego, CA 92101
Attorney for defendant

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at San Diego, California, on the date set forth below.

December 21, 2009

David B. Norris, Attorney for Plaintiffs

EXHIBIT E

EDMUND G. BROWN JR.
Attorney General of California
SARA J. DRAKE
Supervising Deputy Attorney General
WILLIAM L. WILLIAMS, JR.
Deputy Attorney General
State Bar No. 99581
T. MICHELLE LAIRD
Deputy Attorney General
State Bar No. 162979
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2323
Fax: (619) 645-2012
E-mail: Michelle.Laird@doj.ca.gov
Attorneys for Defendant
California Department of Justice

2009 DEC 30 PM 4:09

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

NORTH COUNTY DIVISION

No fee pursuant to Government Code Section 6103

LUCKY BOBS INTERNET CAFÉ, LLC, Plaintiff, v. **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** Defendants.	Case No. 37-2009-00057438-CU-MC-NC **Consolidated with** San Joaquin County Case No. 39-2009-00221372-CU-MC-STK **DEFENDANT CALIFORNIA DEPARTMENT OF JUSTICE'S ANSWER TO LUCKY BOBS INTERNET CAFÉ, LLC'S VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** Dept: N-28 Judge: Hon. Earl H. Maas III Trial Date: Not yet assigned Action Filed: July 20, 2009

STOCKTON ENTERPRISES, LLC, and STOCKTON DEJA VU BOUTIQUE, LLC, Plaintiffs, v. **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** Defendants.	

Defendant, the California Department of Justice (Defendant) answers Plaintiff Lucky Bobs Internet Café, LLC's (Plaintiff) verified complaint for injunctive and declaratory relief (Complaint) as follows:

RESPONSE TO ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Defendant admits the allegation in paragraph 1 of the Complaint that Plaintiff operates and does business as Lucky Bobs Internet Café at 3915 Mission Avenue, Suite D3&4, Oceanside, California. Defendant is without information or belief sufficient to be able to admit or deny the remaining allegations in paragraph 1 of the Complaint and on that basis denies each and every remaining allegation therein.

2. Defendant admits the allegation in paragraph 2 of the Complaint that it is a properly constituted department of the State of California. Defendant denies the allegation in paragraph 2 of the Complaint that it has responsibility, through its Division of Gambling Control, for the uniform enforcement of laws, statutes and codes throughout the State of California. Defendant avers that it has the authority, through the Bureau of Gambling Control, for enforcing and ensuring compliance with state gambling laws.

3. Defendant denies each and every allegation in paragraph 3 of the Complaint.

4. Defendant is without information or belief sufficient to be able to admit or deny the allegations in paragraph 4 of the Complaint and on that basis denies each and every allegation.

5. Defendant admits the allegation in paragraph 5 of the Complaint that the Complaint does not specifically request monetary damages. Defendant admits that it has represented that it will destroy business equipment seized from Plaintiff in 30 days. Defendant is without

information or belief sufficient to be able to admit or deny the implied allegation in paragraph 5 of the Complaint that Plaintiff owns the seized property, and on that basis denies such allegation. Defendant denies the remaining allegations that are in the form of legal conclusions and citation to case law and avers that the cited laws and decisions speak for themselves.

6. Defendant admits the allegations in paragraph 6 of the Complaint that Plaintiff operated Lucky Bobs Internet Café and that Lucky Bobs Internet Café sold "internet time" to customers for use on Plaintiff's computer terminals. Defendant is without information or belief sufficient to be able to admit or deny the implied allegation in paragraph 6 of the Complaint that Plaintiff owns the computer terminals and on that basis denies such allegation.

7. Defendant admits the allegation in paragraph 7 of the Complaint that for every dollar spent by a customer of Lucky Bobs Internet Café to purchase "internet time", the customer received 100 prize entries. Defendant admits that prize winners were determined by the customer entering his or her entries into a computer at Plaintiff's business and either: (a) immediately determining if a prize had been won, or (b) operating one of at least 18 different games on the computer to determine if a prize had been won. Defendant admits that a customer's ability to win or lose at the computer games was not based upon the customer's skill at playing the games. Defendant admits that a customer's ability to win a prize was not based upon the customer's skill at playing the games. Defendant admits that no skill or expertise was required to win a prize and that no amount of skill or expertise could influence the outcome of the computer games. In response to the allegations in the final sentence in paragraph 7 of the Complaint, Defendant avers that Plaintiff's prize entries or games offered at Plaintiff's business constitute an unlawful gambling operation and/or unlawful lottery, and do not constitute a lawful sweepstakes. Except as expressly admitted herein, Defendant denies each and every allegation in paragraph 7 of the Complaint.

8. Defendant admits the allegation in paragraph 8 of the Complaint that it takes the position that Plaintiff's operation as described in paragraph 7 of the Complaint constitutes unlawful conduct.

9. Defendant admits the allegation in paragraph 9 of the Complaint that it confiscated computers, servers, monitors and related business equipment and items from Plaintiff. Defendant denies that the Division of Gambling Control conducted the activities alleged in paragraph 9 of the Complaint. Defendant avers that it was the Bureau of Gambling Control that conducted the activities alleged in paragraph 9 of the Complaint pursuant to a lawfully issued search warrant in the furtherance of a criminal investigation of unlawful gambling. Defendant is without information or belief sufficient to be able to admit or deny the implied allegation in paragraph 9 of the Complaint that Plaintiff owns the confiscated property, and on that basis denies such allegation.

10. Defendant admits the allegation in paragraph 10 of the Complaint that attached thereto as Exhibit A is a one-page "Notice of Intention to Destroy Machines" pertaining to Lucky Bobs Internet Café. Defendant avers that the entity issuing the notice was the Department of Justice, Bureau of Gambling Control, not the Division of Gambling Control.

11. Defendant admits the allegation in paragraph 11 of the Complaint that the Complaint was filed and served within 30 days of the issuance of the notice referred to in paragraph 10 of the Complaint. Defendant cannot admit or deny the remaining allegations in paragraph 11 of the Complaint as they are in the form of demands and on that basis denies each and every remaining allegation therein.

RESPONSE TO FIRST CAUSE OF ACTION FOR INJUNCTIVE RELIEF

12. In response to paragraph 12 of the Complaint, Defendant hereby incorporates by reference, as though fully set forth herein, the admissions, denials and further allegations contained within its answer to paragraphs 1 through 11, inclusive, of the Complaint.

13. Defendant is without information or belief sufficient to be able to admit or deny the allegations in paragraph 13 of the Complaint and on that basis denies each and every allegation therein.

14. Defendant denies the allegation in paragraph 14 of the Complaint that Plaintiff will suffer irreparable injury for the reasons alleged in paragraph 14. Defendant cannot admit or deny

the remaining allegations in paragraph 14 of the Complaint as they are in the form of a prayer for relief and on that basis denies each and every remaining allegation therein.

RESPONSE TO SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF

15. In response to paragraph 15 of the Complaint, Defendant hereby incorporates by reference, as though fully set forth herein, the admissions, denials and further allegations contained within its answer to paragraphs 1 through 14, inclusive, of the Complaint.

16. Defendant admits the allegation in paragraph 16 of the Complaint that an actual controversy has arisen and exists between Plaintiff and this answering Defendant as to whether Plaintiff's operation is prohibited by law. Defendant admits that Plaintiff contends that Plaintiff is operating lawful sweepstakes. Defendant admits that it contends that Plaintiff's prize entries or games offered at Plaintiff's business constitute an unlawful gambling operation and/or unlawful lotteries, and do not constitute lawful sweepstakes.

17. Defendant cannot admit or deny the allegations in paragraph 17 of the Complaint as they are in the form of a prayer for relief and on that basis denies each and every allegation therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The Complaint fails to set forth facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiff has adequate remedies at law.

THIRD AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Declaratory relief should not be granted because it would interfere with the appropriate exercise of law enforcement authority by Defendant under state law.

FOURTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Declaratory relief should be denied under the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiff has not suffered irreparable injury and is unlikely to succeed on the merits.

SIXTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiff lacks standing to bring this action for injunctive and declaratory relief.

SEVENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The relief sought by Plaintiff violates the State Constitution, article IV, section 19, subdivisions (a) and (e).

EIGHTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The relief sought by Plaintiff violates provisions of law prohibiting the possession or operation of unlawful gambling devices, including Penal Code section 330b.

WHEREFORE, Defendant prays:

1. That Plaintiff be granted no relief in this action;
2. That judgment be entered for Defendant;
3. For costs of suit incurred in connection with this action; and,
4. For such other and further relief as the Court deems just and proper.

Dated: December 29, 2009

EDMUND G. BROWN JR.
Attorney General of California
SARA J. DRAKE
Supervising Deputy Attorney General
WILLIAM L. WILLIAMS, JR.
Deputy Attorney General

T. Michelle Laird

T. MICHELLE LAIRD
Deputy Attorney General
Attorneys for Defendant
California Department of Justice

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Lucky Bobs Internet Cafe v. Department of Justice**
Case No.: **37-2009-00057438-CU-MC-NC**
Court: **Superior Court of California, County of San Diego – North County Division**

I, **Peter C. MacIlvaine**, declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **December 29, 2009**, I served the attached:

1. **Defendant California Department of Justice's Answer to Lucky Bobs Internet Café, LLC's Verified Complaint for Injunctive and Declaratory Relief; and**

2. **Defendant California Department of Justice's Answer to Stockton Enterprises, LLC's and Stockton Déjà Vu Boutique, LLC's Verified Complaint for Injunctive and Declaratory Relief**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

David B. Norris, Esq.
Law Offices of David B. Norris
402 W. Broadway, Suite 1140
San Diego, CA 92101

Counsel for Plaintiff

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **December 29, 2009**, at San Diego, California.

Peter C. MacIlvaine	[signature]
Declarant	Signature

EXHIBIT F

OFFICE COPY
ATTORNEY GENERAL

EDMUND G. BROWN JR.
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California Department of Justice

FILED
Clerk of the Superior Court
DEC 30 2009

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

NORTH COUNTY DIVISION

No fee pursuant to Government Code Section 6103

LUCKY BOBS INTERNET CAFÉ, LLC, Plaintiff, v. **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** Defendants.	Case No. 37-2009-00057438-CU-MC-NC 37-2010-50715 **Consolidated with** San Joaquin County Case No. 39-2009-00221372-CU-MC-STK **DEFENDANT CALIFORNIA DEPARTMENT OF JUSTICE'S ANSWER TO STOCKTON ENTERPRISES, LLC'S AND STOCKTON DÉJÀ VU BOUTIQUE, LLC'S VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** Dept: N-28 Judge: Hon. Earl H. Maas III Trial Date: Not yet assigned Action Filed: July 17, 2009

STOCKTON ENTERPRISES, LLC, and STOCKTON DÉJÀ VU BOUTIQUE, LLC, Plaintiffs, v. **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** Defendants.	

Defendant, the California Department of Justice (Defendant) answers Plaintiffs Stockton Enterprises, LLC's and Stockton Déjà Vu Boutique, LLC's (Plaintiffs) verified complaint for injunctive and declaratory relief (Complaint) as follows:

RESPONSE TO ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Defendant admits the allegation in paragraph 1 of the Complaint that Plaintiff Stockton Enterprises, LLC operates and does business as Déjà Vu Showgirls at 4206 N. West Lane, Stockton, California. Defendant is without information or belief sufficient to be able to admit or deny the remaining allegations in paragraph 1 of the Complaint and on that basis denies each and every remaining allegation therein.

2. Defendant admits the allegation in paragraph 2 of the Complaint that Plaintiff Stockton Déjà Vu Boutique, LLC operates and does business as the Lucky Déjà Vu Internet Café at 4124 N. West Lane, Stockton, California. Defendant is without information or belief sufficient to be able to admit or deny the remaining allegations in paragraph 2 of the Complaint and on that basis denies each and every remaining allegation therein.

3. Defendant admits the allegation in paragraph 3 of the Complaint that it is a properly constituted department of the State of California. Defendant denies the allegation in paragraph 3 of the Complaint that it has responsibility, through its Division of Gambling Control, for the uniform enforcement of laws, statutes and codes throughout the State of California. Defendant avers that it has the authority, through the Bureau of Gambling Control, for enforcing and ensuring compliance with state gambling laws.

4. Defendant denies each and every allegation in paragraph 4 of the Complaint.

5. Defendant is without information or belief sufficient to be able to admit or deny the allegations in paragraph 5 of the Complaint and on that basis denies each and every allegation.

6. Defendant admits the allegation in paragraph 6 of the Complaint that the Complaint does not specifically request monetary damages. Defendant admits that it has represented that it will destroy business equipment seized from Plaintiff in 30 days. Defendant is without information or belief sufficient to be able to admit or deny the implied allegation in paragraph 6 of the Complaint that Plaintiffs own the seized property, and on that basis denies such allegation. Defendant denies the remaining allegations that are in the form of legal conclusions and citation to case law and avers that the cited laws and decisions speak for themselves.

7. Defendant admits the allegations in paragraph 7 of the Complaint that Plaintiff Stockton Déjà Vu Boutique, LLC operated the Lucky Déjà Vu Internet Café and that the Lucky Déjà Vu Internet Café sold "internet time" to customers for use on Plaintiffs' computer terminals. Defendant admits that Plaintiff Stockton Enterprises, LLC also had computers at Déjà Vu Showgirls with internet access for customers to use. Defendant is without information or belief sufficient to be able to admit or deny the implied allegation in paragraph 7 of the Complaint that Plaintiffs own the computer terminals and on that basis denies such allegation.

8. Defendant admits the allegation in paragraph 8 of the Complaint that for every dollar spent by a customer of Lucky Déjà Vu Internet Café and/or Déjà Vu Showgirls to purchase "internet time," the customer received 100 prize entries. Defendant admits that prize winners were determined by the customer entering his or her entries into a computer at Plaintiffs' businesses and either: (a) immediately determining if a prize had been won, or (b) operating one of at least 18 different games on the computer to determine if a prize had been won. Defendant admits that a customer's ability to win or lose at the computer games was not based upon the customer's skill at playing the games. Defendant admits that a customer's ability to win a prize was not based upon the customer's skill at playing the games. Defendant admits that no skill or expertise was required to win a prize and that no amount of skill or expertise could influence the outcome of the computer games. In response to the allegations in the final sentence in paragraph 8 of the Complaint, Defendant avers that Plaintiffs' prize entries or games offered at Plaintiffs'

businesses constitute unlawful gambling operations and/or unlawful lottery, and do not constitute lawful sweepstakes. Except as expressly admitted herein, Defendant denies each and every allegation in paragraph 8 of the Complaint.

9. Defendant admits the allegation in paragraph 9 of the Complaint that it takes the position that Plaintiffs' operations as described in paragraph 8 of the Complaint constitute unlawful conduct.

10. Defendant admits the allegation in paragraph 10 of the Complaint that it confiscated computers, servers, monitors and related business equipment and items from Plaintiffs. Defendant denies that the Division of Gambling Control conducted the activities alleged in paragraph 10 of the Complaint. Defendant avers that it was the Bureau of Gambling Control that conducted the activities alleged in paragraph 10 of the Complaint pursuant to a lawfully issued search warrant in the furtherance of a criminal investigation of unlawful gambling. Defendant is without information or belief sufficient to be able to admit or deny the implied allegation in paragraph 10 of the Complaint that Plaintiffs own the confiscated property, and on that basis denies such allegation.

11. Defendant admits the allegation in paragraph 11 of the Complaint that attached to the Complaint as Exhibit A is a one-page "Notice of Intention to Destroy Machines" pertaining to Stockton Enterprises, LLC (Lucky Déjà Vu Showgirls). Defendant admits the allegation in paragraph 11 of the Complaint that attached to the Complaint as Exhibit B is a one-page "Property Receipt" pertaining to Stockton Déjà Vu Boutique, LLC (Lucky Déjà Vu Café). Defendant avers that the entity issuing the notice was the Department of Justice, Bureau of Gambling Control, not the Division of Gambling Control.

12. Defendant admits the allegation in paragraph 12 of the Complaint that the Complaint was filed and served within 30 days of the issuance of the notice referred to in paragraph 11 of the Complaint. Defendant cannot admit or deny the remaining allegations in paragraph 12 of the Complaint as they are in the form of demands and on that basis denies each and every remaining allegation therein.

13. In response to paragraph 13 of the Complaint, Defendant hereby incorporates by reference, as though fully set forth herein, the admissions, denials and further allegations contained within its answer to paragraphs 1 through 12, inclusive, of the Complaint.

14. Defendant is without information or belief sufficient to be able to admit or deny the allegations in paragraph 14 of the Complaint and on that basis denies each and every allegation therein.

15. Defendant denies the allegation in paragraph 15 of the Complaint that Plaintiff will suffer irreparable injury for the reasons alleged in paragraph 15. Defendant cannot admit or deny the remaining allegations in paragraph 15 of the Complaint as they are in the form of a prayer for relief and on that basis denies each and every remaining allegation therein.

RESPONSE TO SECOND CAUSE OF ACTION FOR DECLARATORY RELIEF

16. In response to paragraph 16 of the Complaint, Defendant hereby incorporates by reference, as though fully set forth herein, the admissions, denials and further allegations contained within its answer to paragraphs 1 through 15, inclusive, of the Complaint.

17. Defendant admits the allegation in paragraph 17 of the Complaint that an actual controversy has arisen and exists between Plaintiffs and this answering Defendant as to whether Plaintiffs' operations are prohibited by law. Defendant admits that Plaintiffs contend that Plaintiffs are operating lawful sweepstakes. Defendant admits that it contends that Plaintiffs' prize entries or games offered at Plaintiffs' businesses constitute unlawful gambling operations and/or unlawful lotteries, and do not constitute lawful sweepstakes.

18. Defendant cannot admit or deny the allegations in paragraph 18 of the Complaint as they are in the form of a prayer for relief and on that basis denies each and every allegation therein.

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AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The Complaint fails to set forth facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiffs have adequate remedies at law.

THIRD AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Declaratory relief should not be granted because it would interfere with the appropriate exercise of law enforcement authority by Defendant under state law.

FOURTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Declaratory relief should be denied under the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiffs have not suffered irreparable injury and are unlikely to succeed on the merits.

SIXTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

Plaintiffs lack standing to bring this action for injunctive and declaratory relief.

SEVENTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The relief sought by Plaintiffs violates the State Constitution, article IV, section 19, subdivisions (a) and (e).

EIGHTH AFFIRMATIVE DEFENSE TO EACH AND EVERY CAUSE OF ACTION

The relief sought by Plaintiffs violates provisions of law prohibiting the possession or operation of unlawful gambling devices, including Penal Code section 330b.

WHEREFORE, Defendant prays:

1. That Plaintiffs be granted no relief in this action;
2. That judgment be entered for Defendant;
3. For costs of suit incurred in connection with this action; and,
4. For such other and further relief as the Court deems just and proper.

Dated: December 29, 2009

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